

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

JOE MANNA, PHYLLIS HACKER,  
ADRIAN LEWIS, MICHAEL MURRER, and  
DIANA ERASMUS-MURRER, individually  
and on behalf of all other persons similarly  
situated,

No.: 3:13-cv-30166-KPN

Plaintiffs,

vs.

HUNGRY FISH MEDIA LLC, et al.,

Defendants.

ORDER GRANTING  
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

Plaintiffs' Motion for Preliminary Approval of Class Action Settlement was presented to the Court on November 1, 2013. Having considered the papers submitted in support of the motion, *including the Amended Class Action Settlement Agreement and Notice (Doc. No. 21),* and having heard oral argument from the parties, and the Defendants having stated their *as amended (Doc. No. 22),* non-opposition and consent to the motion, the Court HEREBY ORDERS THE FOLLOWING:

1. For settlement purposes only, the Court conditionally certifies a Settlement Class defined as:

**ALL UNITED STATES RESIDENTS WHO PURCHASED,  
VIA THE INTERNET FROM ONE OR MORE OF THE  
DEFENDANTS, ONE OR MORE OF DEFENDANTS'  
PRODUCTS FROM APRIL 1, 2009, THROUGH MARCH 13,  
2013 WHO FALL INTO ONE OF THE FOLLOWING  
"TIERS":**

Settlement Class/Tier No. 1: A Settlement Class Member who requested, from one or more of the Defendants, a refund for one or more of Defendants' Products and was refunded some or all of the cost of the product, but was not refunded shipping and handling charges and/or was not reimbursed for return shipping costs.

Settlement Class/Tier No. 2: A Settlement Class Member who requested, from one or more of the Defendants, a refund for one or more of Defendants' Products and was not refunded any cost of the product or shipping.

Settlement Class/Tier No. 3: A Settlement Class Member who cancelled his/her Subscription within 90 days of the ship date of his/her first Subscription (not trial) shipment for one or more of Defendants' Products, and does not meet the criteria for Tier 1 or Tier 2.

2. The Court confirms Joe Manna, Phyllis Hacker, Adrian Lewis, Michael Murrer, and Diana Erasmus-Murrer as representatives of the Settlement Class.

3. For purposes of settlement and final approval of this Settlement, the Court finds that Plaintiffs Joe Manna, Phyllis Hacker, Adrian Lewis, Michael Murrer, and Diana Erasmus-Murrer are appropriate representatives to give notice to the following:

**ALL UNITED STATES RESIDENTS WHO PURCHASED,  
VIA THE INTERNET FROM ONE OR MORE OF THE  
DEFENDANTS, ONE OR MORE OF DEFENDANTS'  
PRODUCTS FROM APRIL 1, 2009, THROUGH MARCH 13,  
2013 WHO FALL INTO ONE OF THE FOLLOWING  
"TIERS":**

Settlement Class/Tier No. 1: A Settlement Class Member who requested, from one or more of the Defendants, a refund for one or more of Defendants' Products and was refunded some or all of the cost of the product, but was not refunded shipping and handling charges and/or was not reimbursed for return shipping costs.

Settlement Class/Tier No. 2: A Settlement Class Member who requested, from one or more of the Defendants, a refund for one or more of Defendants' Products and was not refunded any cost of the product or shipping.

Settlement Class/Tier No. 3: A Settlement Class Member who cancelled his/her Subscription within 90 days of the ship date of his/her first Subscription (not trial) shipment for one or more of Defendants' Products, and does not meet the criteria for Tier 1 or Tier 2.

4. The Court grants preliminary approval of the Settlement on the terms set forth in the Amended Class Action Settlement Agreement and Release ("Amended Settlement Agreement") filed by the parties on December 4, 2013. The Settlement appears to the Court on its face to be fair, adequate, and reasonable.

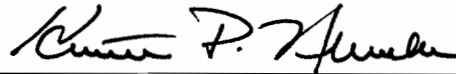
5. The Court approves, as to form and content, the Claims Forms (attached as **Exhibit 1** to the Amended Settlement Agreement) and the Settlement Notice (attached as **Exhibit 2** to the Amended Settlement Agreement). The Court finds that the dates selected for the distribution of the Settlement Notice set forth in the Amended Settlement Agreement meet the requirements of due process and provide the best notice practicable under the circumstances and shall constitute due and sufficient notice to all persons entitled thereto.

6. The Final Approval Hearing shall be held at the United States District Court for the District of Massachusetts, 300 State Street, Hampshire Courtroom, Springfield, Massachusetts on **March 19, 2014 at 2:00 p.m.**

7. The Court confirms the law firm of Connor, Morneau & Olin, LLP and the Law Office of Angela Edwards as Class Counsel

8. The Court confirms Kurtzman Carson Consultants LLC as the Settlement Administrator.

IT IS SO ORDERED, THIS 10 DAY OF DECEMBER, 2013.



The Honorable Kenneth P. Neiman, USMJ